

HUD Inspector General Investigates HUD Violations Of Federal Radon Laws

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(PRWEB) May 20, 2004 -- At the request of Congress, the HUD Office of Inspector General is currently investigating allegations by the American Radon Policy Coalition that the Department is violating federal radon laws. According to recent correspondence with Senators Lugar and Santorum, IG Kenneth Donohue anticipates providing members with at least an interim response by May 28, 2004. Below is an explanation of Federal Laws and Executive Orders that, according to ARPC, HUD has ignored for as long as 15 years:

1. The McKinney Act Amendments to the 1988 Indoor Radon Abatement Act require HUD to “develop an effective departmental policy for dealing with radon contamination that utilizes any EPA guidelines and standards to ensure that occupants of [federally assisted multifamily housing] are not exposed to hazardous levels of radon” and authorized the EPA Administrator to “issue such regulations as may be necessary to carry out the provisions of [the Act].” Additionally, HUD is ordered to assist EPA in reducing radon contamination.

a. Testing and mitigation of federally assisted housing has still not been initiated, despite HUD Secretary Kemp’s 1992 assurances to the Senate that “HUD recognizes that Congress expects the Department to address the balance of housing stock identified by the McKinney Amendments.”

b. HUD has yet to make any effort to assist EPA in reducing radon contamination.

2. HUD willfully concealed a radon testing protocol for multifamily housing developed by for the sole purpose of assisting HUD with the implementation of the McKinney Amendments.

a. After the Senate Appropriations Committee and GAO expressed concern that HUD’s April 1991 had not satisfied the requirements of Section 1091 of the McKinney Amendments Act, the Department continued to argue that “the lack of information on testing and mitigating radon in multifamily housing, precluded the Department from compliance at that time. However, according to EPA officials, “Existing testing guidance is applicable to HUD’s single family structures, row houses, and multistory apartment buildings with only a few floors.” To end the argument, in 1991, the Senate directed HUD and EPA to enter into an interagency agreement to develop detailed guidance outlining testing and mitigation procedures for the purpose of assisting HUD in the implementation of the McKinney Amendments to IRAA.

b. In February of 1995, EPA completed and transmitted the radon testing guidebook entitled “Radon Measurement in HUD Multi-family Buildings to HUD,” The transmittal letter stated, “The testing guidebook along with the mitigation documents provided earlier represent an important step towards achieving equitable protection from the health risks of radon for low income communities.” At HUD’s request, the document did not receive “the same broad review

typical for EPA radon documents, and, therefore, has not been approved for publication as an EPA document.”

c. The ARPC only discovered the guidebook existed after it was covertly leaked by a HUD employee in early 2003.

3. The Department has violated Executive Order 12898 “Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations”.

a. The CDC concluded “People in minority groups or with low levels of income or education are significantly less likely to have heard of residential radon and its potential health risk than were whites or people with higher levels of income or education.”

b. Almost all radon testing currently being performed is driven by real estate sales as a result of corporate relocation companies requiring or recommending tests of the homes being vacated by corporate executives being transferred.

4. By failing to require radon tests as a requirement for the issuance of federally insured home mortgages, HUD has violated the National Environmental Policy Act and 24CFR50.3(i) written for NEPA compliance. 24CFR50.3(i) specifically states that. “It is HUD policy that all property proposed for use in HUD programs be free of hazardous materials, contamination, toxic chemicals and gases, and radioactive substances where a hazard could affect the health and safety of occupants or the utilization of the property.”

a. Section 50.2 states, “Project means an activity, or a group of integrally-related activities, undertaken directly by HUD or proposed for HUD assistance or insurance.”

b. HUD’s Finding of No Significant Impact, which has precluded almost every HUD program and activity from the requirements of 24CFR50.3(i), is arbitrary and capricious. By failing to consider the impact of environmental contaminants, especially but not limited to radon, HUD has caused severe and irreparable harm to the occupants of all structures under its programs and activities, as well as placing the owners, appraisers and underwriters of these properties in a position of severe potential liability.

c. Even if one accepts HUD’s exclusion of government insured mortgages from NEPA compliance, the law requires an impact statement in the event of “Extraordinary Circumstances.” Zones 1 and 2 of the EPA Map of Radon Zones should be considered with the same weight as the CERCLA maps.

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